

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5128 of 2024**

Rajgopal Sing @ Thapa ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Asif Shaikh, *for the Applicant.*
Ms. Anamika Malhotra, *APP for the State-Respondent.*
Mr. Viral Mukte, *for Respondent No.2.*
Mr. Sopan Bhagwat Wadkar, *PSI- Pairavi, Sakinaka Police Station, is present.*

CORAM Dr. Neela Gokhale, J.
DATED: 10th October 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 140 of 2022 registered with Sakinaka Police Station for the offences punishable 363 of the Indian Penal Code, 1860 ('IPC'). Initially, the FIR was registered only for the offense punishable under Section 363. However, upon investigation, it was revealed that the Applicant had also committed the offenses punishable under Sections 376, 328 and 341 of the IPC and 4, 8 and 12 of the Protection of

Children from Sexual Offenses Act, 2012 ('POCSO Act'). Hence, these offenses were also invoked in the charge-sheet.

2. The facts of the case, in brief, are that the present Applicant was in relationship with the mother of the victim. At the time of the incident, the victim's mother was 34 years of age, the victim herself of 17 years of age and the Applicant was 25 years of age. The victim has a sister as well. Both the victim and her sister were living with their mother and the Applicant. On 12th February 2022, there was a quarrel between the victim's mother and the Applicant and during the said quarrel, the Applicant professed his love and affection for the victim. The quarrel between the victim's mother and the Applicant escalated. The Applicant walked out of the house locking the door behind him. Thereafter, he returned and took away the victim along with him. The victim's mother, then filed a complaint and accordingly, the FIR was registered, initially as a missing complaint and thereafter included the offenses punishable under the aforesaid provisions. The

Applicant made an application for bail before the Sessions Court, Dindoshi. However, by an order dated 26th February 2024, his bail application was rejected. The Applicant is thus, before this Court seeking the relief as prayed.

3. Mr. Asif Shaikh, learned Counsel for the Applicant, submits that the relationship between the Applicant and the victim was consensual and he has not committed any offense, much less any offense as alleged against him. He submits that he was merely the victim's mother's friend and the victim's mother did not want him to have any relationship with her daughter and in these circumstances, she filed the present complaint. He submits that the Applicant was arrested on 9th April 2022 and till date, only the charges are framed and no witnesses have been examined. Thus, he prays that the Applicant be released on bail.

4. *Per contra*, Ms. Anamika Malhotra, learned APP, while resisting the bail application, fairly concedes that the first statement of the victim indicates that she was in a consensual

relationship with the Applicant. It is at the intervention of her mother that the Applicant has made allegations against the Applicant in the supplementary statement.

5. Mr. Viral Mukte, learned Counsel appointed to represent Respondent No.2, though, stoutly resisted the bail application. He submitted that the present Applicant was in a relationship with the victim's mother and despite that, he tried to establish an illicit relationship with the victim as well. He points to the supplementary statement of the victim wherein, she has stated that the Applicant intoxicated her by spiking her coca cola drink and thereafter, established forcible sexual relation with the victim. He thus submits that the Applicant has committed the offenses as alleged and bail application be rejected.

6. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

7. Admittedly, at the time of the incident, the Applicant was 17 and half years of age. Be that as it may, it appears from her first statement that her relationship with the Applicant was consensual. It appears that the victim's mother herself being in relationship with the Applicant was unhappy with the said relationship and thus filed the present FIR.

8. The Applicant is a 25 year young boy and he has already suffered incarceration for more than 3 years. The trial has not commenced as yet, save and except for the charges having been framed and no witnesses are examined till date. In these circumstances, I am of the view that it is not desirable that the Applicant be in the custody and associate with hardened criminals. *Prima facie*, there is no material on record to indicate his complicity in the said offense. Admittedly, there are no antecedents against the Applicant. In these circumstances, I am inclined to grant bail to the Applicant on the following conditions:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)